



March 22, 2001

Mr. John Steiner
Division Chief
City of Austin - Law Department
P.O. Box 96
Austin, Texas 78767-96

OR2001-1127

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 145197.

The City of Austin (the "city") received a request for information regarding "negotiations of the 'meet and confer' agreement between the city and the police officers' exclusive bargaining agent under Subchapter I of Chapter 143 of the Local Government Code." You contend that the requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 143.305 of the Local Government Code. We have considered the exception you claim and reviewed the sample documents you have submitted.¹

Section 552.101 of the Government Code excepts from required disclosure information that is considered confidential by law, either constitutional, statutory, or by judicial decision. This exception encompasses information protected from disclosure by other statutes. Section 143.305 of the Local Government Code reads, in pertinent part:

¹ In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

An agreement made under this subchapter is a public record for purposes of Chapter 552, Government Code. The agreement and any document prepared and used by the municipality in connection with the agreement are available to the public under the open records law, Chapter 552, Government Code, *only after* the agreement is ratified by the municipality's governing body. [Emphasis added.]

You state that the responsive information refers solely to information related to current negotiations, and that those negotiations have not yet resulted in an agreement ratified by the city's governing body. To substantiate your claim, you have attached an affidavit from an individual personally involved in the meet and confer contract negotiations attesting that there is no final agreement. After reviewing the documents submitted to this office, we conclude that the city may withhold them from disclosure at this time under section 552.101 of the Government Code in conjunction with section 143.305 of the Local Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

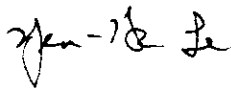
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/DBF/seg

Ref: ID# 145197

Encl. Submitted documents

cc: Mr. Randy Malone
Fraternal Order of Police
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(w/o enclosures)